

# UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF NEW YORK  
OFFICE OF THE CLERK  
KIM F. LEFEBVRE - CLERK

## ALBANY DIVISION

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## SYRACUSE DIVISION

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**REPLY:**

Date:

To:

Re:

Case No.  
Adv. Pro. No.

Dear \_\_\_\_\_:

A review of the file of the above referenced adversary proceeding indicates that the Defendant's time to answer has expired pursuant to Fed. R. Bankr. P. 7012, and no answer has been filed with the Clerk of this Court.

If you believe that the Defendant, \_\_\_\_\_, is in default for failure to appear and/or plead, it is requested that you proceed toward entry of a default judgment pursuant to Fed. R. Bankr. P. 7055 (which incorporates by reference Fed. R. Civ. P. 55). The Clerk is permitted to comply with a request for entry of default only upon being presented with an affidavit attesting to the following:

- 1) Date of issuance of the summons;
- 2) Statement of whether the court fixed a deadline for the filing of answer or motion, and whether the 30 (or 35) day limit applies;
- 3) Date of service of the complaint or motion;
- 4) Date of filing of affidavit of service;
- 5) Statement that no answer or motion has been received within the time limit fixed by the court or by Fed. R. Bankr. P. 7012(a); and
- 6) Statement that the defendant is not in the military service, as required by 50 U.S.C. Sec. 520.

No judgment by default shall be entered against an infant or incompetent person unless represented in the action by a general guardian, committee, conservator or other such representative who has appeared therein. *Fed. R. Bankr. P. 7055; Fed. R. Civ. P. 55(b)(2).*

In the event the Court believes a hearing will be necessary pursuant to Fed. R. Civ. P. 55(b)(2), you will be notified. Failure to seek a judgment by default within forty-five (45) days after a default occurs may result in the Court dismissing the adversary proceeding sua sponte, pursuant to Fed. R. Bankr. P. 7041.

KIM F. LEFEBVRE  
Clerk of Court

By: \_\_\_\_\_  
Deputy Clerk